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Paper No.

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APR 23 2004

OFFICE OF PETITIONS

In re Application of: :
Peresada et al. :
Application No. 10/674,832 : DECISION DISMISSING
Filed: September 29, 2003 : PETITION UNDER
Title of Invention: METHOD AND : 37 CFR 1.47(b)
APPARATUS FOR MOUNTING A PLURALITY :
OF MAGNET SEGMENTS ON A BACK RING :

This is in response to the correspondence filed February 17, 2004, which is properly treated as a petition under 37 CFR 1.47(a), to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor(s). The one (1) month extension of time request is hereby granted.

The petition is dismissed.

Rule 47 applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)"; should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor, AND BE ADDRESSED TO petitions Attorney Derek L. Woods. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on September 29, 2003, without, a fully executed oath or declaration. The Office mailed a Notice to File Missing Parts of Nonprovisional Application (hereinafter "Notice"), on December 19, 2003, requiring *inter alia*, a properly signed oath or declaration.

In response to the Notice, Applicant files the instant petition wherein Applicant avers that the nonsigning inventor, Carey Linkovich, refuses to join in the application. No documentary evidence supporting this assertion has been filed.

Applicable Law

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. Applicant lacks items (1), (2) and (4) set forth above.

As to item (1), where it is alleged that an applicant refuses to join an application, the applicant must establish that the nonsigning inventor was presented with the application for signature. The Manual of Patent Examining Procedure ("MPEP") states that

A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney.

MPEP 409.03(d).

As to item (2), Applicant has failed to provide an oath or declaration in compliance with 35 U.S.C. §§ 115 and 116. A properly executed oath or declaration is required. An acceptable oath or declaration form may be downloaded from the USPTO Website at www.uspto.gov. The correct form number is PTO/SB/01.

As to item (4), the last known address of the non-signing inventor - the address at which the inventor customarily receives mail - must be provided. See, MPEP 409.03 and 605.03.


Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 872-9306
Attn: Office of Petitions

By hand: 2201 South Clark Place
Customer Window
Crystal Plaza Two, Lobby Room 1B03
Arlington, VA 22202

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 305-0014.


Derek L. Woods
Petitions Attorney
Office of Petitions